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**FISCAL IMPACT STATEMENT**

**LS 7479**

**BILL NUMBER:** HB 1573

**NOTE PREPARED:** Feb 14, 2009

**BILL AMENDED:** Feb 12, 2009

**SUBJECT:** Various Professions Matters.

**FIRST AUTHOR:** Rep. Welch

**FIRST SPONSOR:**

**BILL STATUS:** CR Adopted - 1<sup>st</sup> House

**FUNDS AFFECTED:** X GENERAL  
DEDICATED  
FEDERAL

**IMPACT:** State

**Summary of Legislation:** (Amended) *Criminal Histories*- The bill specifies requirements for new home health agency and personal service agency employees to provide a limited criminal history or a national criminal history to the agency.

*Continuing Education*- The bill allows Board-approved activities to meet certain professional's continuing education requirements.

*Destroyed Health Records*- The bill exempts a health care provider from liability for health records destroyed in a natural disaster.

*Notices and Time Computations*- The bill specifies the service of notices and time computations for disciplinary actions.

*Pharmacy Violations*- The bill provides that a qualifying pharmacist is subject to disciplinary actions if the pharmacist knew or should have known of a violation at the pharmacy. The bill allows a board to require restitution as part of a disciplinary sanction.

*Discontinued Practice Health Records*- The bill allows a board that regulates certain health professionals to establish the requirements to manage health records when a practice has been discontinued.

*Sports Team Healthcare Practitioners*- The bill exempts certain sports team healthcare practitioners who provide treatment for their team members from state license requirements.

*Barbers-* The bill allows a barber shop and barber school to be inspected before an initial license is issued. The bill removes staggered license barber renewal system. The bill provides that a barber instructor's license and barber's license expire at the same time. The bill allows the Board to issue a provisional license to a barber who comes from a jurisdiction that does not provide licensure if certain requirements are met. The bill allows a person to take the barbers examination not more than five times without additional study. The bill requires 100 hours of additional study before taking a barber exam for the sixth time.

*Cosmetology* The bill specifies that the practice of cosmetology does not include massage therapy. The bill allows cosmetology schools and certain salons to be inspected before an initial license is issued.

*Reciprocity Requirements-* The bill amends the education and practice experience requirements for reciprocity for certain professionals.

*Beauty Culture, Esthetician, Tanning Facilities-* The bill allows the Board to issue a provisional license to a cosmetologist, electrologist, manicurist, or a esthetician who comes from a jurisdiction that does not provide licensure if certain requirements are met. The bill provides that a beauty culture practitioner's license and beauty culture instructor's license expire at the same time. The bill allows an esthetician with a temporary permit to work under the supervision of a cosmetologist. The bill allows the board to inspect a tanning facility before issuing a license.

*Dental Fees and Recruitment-* The bill establishes a fee for dental hygienists' and dentists' licenses and certain permits. The bill requires the fee to be placed in the dental recruitment fund. The bill establishes a program to provide grants to recruit dental hygienists and dentists to underserved areas.

*Massage Therapists-* The bill requires a massage therapist to have liability insurance and to provide proof of the therapist's certification. The bill removes the expiration date from the statute allowing temporary fellowship permits.

*Nursing Education Program-* The bill allows a nursing education program to employ a registered nurse who meets certain requirements to provide clinical instruction.

*Marriage and Family Therapists-* The bill allows certain persons who are in a doctoral program to either apply for a marriage and family therapist associate license or accrue clinical experience. The bill provides the means that marriage and family therapist post degree experience is accumulated.

*Pharmacy Technician-* The bill provides that a pharmacy technician who is practicing in a federally qualified health center meets the supervision requirement by being in electronic visual and vocal contact with the pharmacist.

*Physician Assistants-* The bill amends the list of physician assistant (PA) approved programs. The bill amends PA licensure requirements. The bill amends PA temporary licensure requirements and removes the requirement that a PA with a temporary license must practice onsite with the supervising physician. The bill amends the PA inactive license requirements. The bill requires a supervising physician to not have certain disciplinary restrictions and to maintain an agreement with the PA.

*Health Service Providers in Psychology-* The bill requires a health service provider in psychology to have two years of sequential and organized professional experience in a supervised health service setting as a requirement of endorsement. The bill removes the requirement that the health service provider in psychology

must obtain one year of experience after obtaining a doctorate in psychology.

*Real Estate Commission-* The bill allows the Real Estate Commission (REC) to use an emergency rule to adopt the Uniform Standards of Professional Appraisal Practice.

*Successor Sellers-* The bill allows the Board of Funeral and Cemetery Service to designate a successor seller when the initial seller does not comply with certain requirements.

*Repealers-* The bill repeals laws concerning: (1) cosmetology license renewal; (2) esthetician reciprocity requirements; (3) inspection of the funeral director examination; (4) PA's definition of "accrediting agency"; and (5) use of a PA testing company. The bill makes conforming changes.

**Effective Date:** June 30, 2008 (retroactive); July 1, 2008 (retroactive); July 1, 2009.

**Explanation of State Expenditures:** (Revised) *Criminal Histories-* If home health agencies request fewer national criminal history background checks and more limited criminal history background checks, ISP workload may decrease. Limited criminal history information can be requested online, whereas a national criminal history background check must be completed in person to fulfill the fingerprinting requirement. If more limited criminal history background checks are requested online, this may increase the workload of the IOT. Actual changes in workload for ISP and IOT are indeterminable but expected to be minimal.

*Destroyed Health Records-* This provision would free the Attorney General (AG) from defending the state in a lawsuit if a state health care facility had health care records destroyed during a natural disaster.

*Reciprocity Requirements-* Professional boards considering changing reciprocity requirements may have to schedule additional meetings to promulgate new rules, which could increase reimbursement for mileage and per diem.

*Pharmacy Violations-* This provision could allow the AG to investigate and take action against pharmacists violating statute or rule. The Pharmacy Board could take action to punish a violator.

*Discontinued Practice Health Records-* If health profession boards were to meet more to adopt rules to regulate the storage of discontinued practice health records, reimbursement for mileage and per diem would increase board expenditures.

*Real Estate Commission (REC)-* Currently, the rule making process can take up to seven months to implement. This provision would lower that time frame considerably, which could provide the REC the ability to focus on other items of business during meetings. The REC is scheduled to meet nine times during the current calendar year.

*Barbers-* Currently, the PLA faces expiration of one-fourth of all barber licenses every year. The number of barber licenses was 3,799 as of December 15, 2008. The PLA would more efficiently handle their renewal, if the licenses expired on one specific date.

*Barber Schools-* Barber schools are currently on a biannual renewal cycle. The bill would place their expiration at the time of barber licenses (four years). The bill would also place barber instructor license expiration to coincide with beauty culture instructors. This provision would allow the PLA to set the date of expiration. There would be a very slight savings to the PLA, if barber school licenses were renewed on

a four-year instead of a two-year cycle.

(Revised) *Health Service Providers in Psychology*- This provision would have an unknown affect on the number of endorsements for health service providers in psychology in a given year. The impact to state revenues is unknown. As of December 2008, there were 1,590 licensed psychologists. The fee for endorsement is currently \$100.

*Repealers and Conforming Changes*- Repealing the ability for funeral director applicants to review their exam would allow the PLA to proceed with the outsourcing of this exam, which would reduce the expenditures of the PLA.

(Revised) *Physician Assistants*- There would be a reduction in administrative duties and expenditures related to those duties, if it were no longer necessary for the PLA to revoke temporary physician assistant licenses when applicants fail the examination.

**Explanation of State Revenues:** (Revised) *Criminal Histories*- Current law requires all home health agency operators to obtain a national criminal history background check for their employees. Under the bill, home health agency operators would only be required to obtain national criminal history background checks for employees who have resided within the state of Indiana for less than two years prior to their date of hire. Employers will be authorized to obtain limited criminal history information for employees who have resided within the state for longer than two years prior to their date of hire. To the extent that home health agency operators request limited criminal history check in lieu of a national criminal history background check, state revenue to the General Fund and the Indiana Office of Technology (IOT) Portal Fund would decrease. The actual decrease in state revenue is indeterminable as the number of home health agency employees who have resided within the state for (1) more than two years, and (2) less than two years, is unknown.

National criminal history background checks cost a total of \$32.25, \$17.25 of which is given to the federal government, and the remaining \$15 is deposited into the state General Fund.

	Current	As Proposed
<b>Type of Check and Requirement</b>	All home health care employees required to obtain national criminal history check.	Home health agency operators would be required to collect <u>national</u> criminal history check for all employees who have resided in the state for less than two years. Home health agency operators <u>can</u> request <u>limited</u> criminal history background checks for employees who have resided in the state for more than two years.
<b>Fee</b>	National: \$32.25; \$15 of which is deposited into the state General Fund, \$17.25 is forwarded to the federal government.	National: \$32.25; \$15 of which is deposited into the state General Fund, \$17.25 is forwarded to the federal government. Limited: \$16 for persons who do not subscribe to AccessIndiana, \$15 for AccessIndiana subscribers, and \$7 by mail; fee is waived for school corporations.

Fees vary for limited criminal history background checks and depend on the method in which the information is obtained. Revenue from fees collected is deposited into the state General Fund and the IOT Portal Fund (see table below). The IOT reports that the Portal Fund is used to maintain and modify AccessIndiana webpages.

Limited Criminal History Background Check Fees				
Type of Fee	Information Obtained Through	Amount of Fee	Amount of Fee Deposited into State General Fund	Amount of Fee Deposited into IOT Portal Fund
<b>AccessIndiana (Subscriber)</b>	AccessIndiana Website	\$15	\$7	\$8
<b>AccessIndiana (Non-Subscriber)</b>	AccessIndiana Website	\$16.32	\$7	\$9.32
<b>Mail/In-Person</b>	Mail; In-Person	\$7	\$7	\$0
<b>Partial Exemption</b>	AccessIndiana Website; Mail; In-Person	\$7	\$7	\$0
<b>Full Exemption</b>	AccessIndiana Website; Mail; In-Person	\$0	\$0	\$0

*Pharmacy Violations-* If more pharmacists are disciplined as a result of this provision, the Pharmacy Board could elect to fine a violator up to \$1,000. Although likely to be minimal, any increase in fines under this provision would be deposited into the state General Fund.

(Revised) *Barbers-* This provision could increase barber exam revenue fees. Currently, the PLA administers the examination for barbers. Fees from this exam go to the state General Fund. The exam fee is assessed for each sitting. If applicants took more than two opportunities to sit for the barber exam, before having to take remedial education, state revenue could increase. However, the PLA intends to outsource the barber exam in the near future. After outsourcing occurs, the state would no longer receive examination fees from applicants. The requirement for additional hours of training would be reduced by 150 hours, which could lead to an applicant returning for a sixth sitting in a much shorter time frame.

*Barber Schools-* If the PLA did not adjust fees for barber schools, there would be a revenue loss to the state as a result of barber schools renewing every four instead of every two years. The projected revenue loss would be approximately \$2,400 per four-year period.

*Provisional Barber License-* The state would receive revenue from fees paid for the proposed provisional barber license.

(Revised) *Dentist Fees and Recruitment-* A \$20 fee would be charged to every dentist and dental hygienist in addition to other license fees allowed under current law and rule. These fees would be placed into the newly created Indiana Dental Recruitment Fund (IDRF). The IDRF would be used to provide incentive grants for dentists serving in underserved areas of the state. Over the FY 2010-FY 2011 biennium, the \$20 fee would generate about \$164,000 in revenue, assuming that recent trends in dentist licensure renewal hold. Money in the fund would not revert to the General Fund.

*Cosmetology-* Cosmetologist would not be permitted to engage in unlicensed practice of massage therapy. If a cosmetologist did provide massage therapy (MT) without a MT license, the practitioner would commit a Class C infraction.

(Revised) *Beauty Culture, Esthetician, Tanning Facilities*- If persons applied for a provisional cosmetology, electrologist, manicurist, or a esthetician license, the state would receive revenue from the fees established for those licenses.

Reciprocity- the State Board of Cosmetology (SBC) would have the option of to adopt rules that would place a year of licensed practice equal to 100 hours of education with respect to reciprocity with other jurisdictions. This provision could increase the number of applicants to the SBC, which would increase fee revenue upon their successful license approval.

*Marriage and Family Therapists (MFT)*- This provision would have an unknown affect on this profession's licensing fees. The impact would be determined by the path taken by the MFT candidate as provided in the bill. The bill allows a candidate to either: (1) apply for an associate license by meeting current requirements for licensure under law, or (2) elect to not apply for an associate license and instead accrue clinical experience and apply for an MFT license at the conclusion of their doctoral program.

*Massage Therapists*- MT's that do not display proof of certification when practicing would commit a Class C infraction. The maximum judgment for a Class C infraction is \$500, which would be deposited in the state General Fund. However, any additional revenue is likely to be small.

(Revised) *Physician Assistants*- There may be fewer temporary licenses issued as a result of the bill's changes to the qualifications to hold a temporary license. Currently, a temporary license may be issued if the applicant is waiting to re-take or has taken the NCCPA examination and is awaiting the results of the exam. The impact of this provision on state revenues would be negligible. As of December 2008, there were five temporary Physician Assistants (PA) permits issued.

Additionally, there may be a few additional licenses issued to those that have passed the Physician Assistant National Certifying Examination (PANCE) before 1986. The impact to state revenues is indeterminable. As of December 2008, there were 654 licensed physician assistants. Total licensing revenue for FY 2008 was \$62,896.

#### **Explanation of Local Expenditures:**

**Explanation of Local Revenues:** *Penalty Provision:* If additional court actions are filed and a judgment is entered, local governments would receive revenue from court fees. However, any additional revenue is likely to be small.

(Revised) *Criminal Histories*- Home health agency employees would need to submit a fingerprint card to complete a national criminal history background check. If the card is obtained through an ISP post, of which there are 18 statewide, it is free. If it is obtained from a local law enforcement agency, fees vary. Fees collected from fingerprint cards are used by the local police department which collects the fee. Actual use of the fees varies by department. If home health agency operators request employees to obtain a limited criminal history background check rather than a national background check, local revenue obtained from the finger print cards may decrease. Actual decreases in revenue are unknown but are expected to be minimal.

#### **State Agencies Affected:**

**Local Agencies Affected:** Trial courts, local law enforcement agencies; ISP.

**Information Sources:** Wade Lowhorn & Barbara McNutt, PLA; *Indiana Handbook of Taxes, Revenues, and Appropriations*, LSA.

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